

Dkt No. 3000111-7048184001
(4818CIP1)

REMARKS

Claims 1-102 remain pending in this application, all of which stand rejected. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Claim Rejections-Double Patenting

Claims 1-102 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-86 of U.S. Patent Application Ser. No. 10/012,586. Applicant has submitted herewith a Terminal Disclaimer with respect to U.S. Patent Application Ser. No. 10/012,586, and as such, respectfully request the withdrawal of the provisional double patenting rejections of these claims.

Claim Rejections-35 U.S.C. §102

Claims 85 and 89-91 stand rejected under 35 U.S.C. §102, as being anticipated by U.S. Patent No. 6,080,170 issued to Nash, et al. ("Nash"). Applicant respectfully traverses this rejection, since Nash does not disclose each and every element required by these claims.

In particular, independent claim 85 has been amended to clarify that the electrical controller is for controlling positioning of at least one of the shafts so as to respond in accordance with action at the input device in performing the medical procedure. Similarly, independent claim 91 has been amended to require the controller to control positioning of at least one of the shafts so as to respond in accordance with action at the input device in performing the medical procedure. In contrast, the positioning of the shafts disclosed in Nash is not controlled by an electrical controller.

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Thus, Applicant submits that independent claims 85 and 91, as well as the claims depending from claim 85 (claims 89 and 90), are not anticipated by Nash, and as such, respectfully request withdrawal of the §102 rejections of these claims.

Allowable Subject Matter

Claims 86-88 and 92-94 stand objected to as depending from a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. While Applicant graciously acknowledges the Examiner's indication that these claims contain allowable subject matter, it is believed that claims 86-88 and 92-94 are allowable by virtue of their dependency from independent claims 85 and 91, which are believed to be allowable over the cited prior art, as discussed above. As such, Applicant respectfully request withdrawal of the objections of these claims.

Conclusion

Based on the foregoing, it is believed that all claims are now allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (949) 939-1777.

Respectfully submitted,

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